

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jayvee Rhoda	Team: Squad #10	CCRB Case #: 201509483	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/05/2015 4:03 PM	Location of Incident: § 87(2)(b)	Precinct: 84	18 Mo. SOL 5/5/2017	EO SOL 5/5/2017	
Date/Time CV Reported Fri, 11/06/2015 3:30 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 11/06/2015 3:30 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Dileonardo	12951	946940	084 PCT
2. POM Angel Vazquez	29633	951374	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Dileonardo	Abuse: PO Eric Dileonardo entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Angel Vazquez	Abuse: PO Angel Vazquez entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Eric Dileonardo	Abuse: PO Eric Dileonardo forcibly removed § 87(2)(b) to New York Methodist Hospital.	§ 87(2)(b)
D.POM Angel Vazquez	Abuse: PO Angel Vazquez forcibly removed § 87(2)(b) to New York Methodist Hospital.	§ 87(2)(b)
E.POM Angel Vazquez	Abuse: PO Angel Vazquez searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

### Case Summary

On November 5, 2015, at approximately 4:03 p.m., § 87(2)(b) was in her apartment at the § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) who has a mental health history, repeatedly opened and slammed her door and verbally threatened other tenants on her floor. § 87(2)(b) the housing director of § 87(2)(b)'s building, called 911 because § 87(2)(b) was behaving in an emotionally disturbed manner. PO Eric Dileonardo and PO Angel Vazquez from the 84<sup>th</sup> Precinct arrived at the scene and asked § 87(2)(b) to open her door, but she refused. § 87(2)(b) who had the key to § 87(2)(b)'s apartment, opened the door, but § 87(2)(b) had a chain lock preventing the door from being fully opened. PO Vazquez allegedly broke the chain lock with his asp and he and PO Dileonardo entered § 87(2)(b)'s apartment (**Allegations A and B**). The officers handcuffed § 87(2)(b) placed her in custody, and removed her from the apartment (**Allegations C and D**). PO Vazquez then went back inside § 87(2)(b)'s apartment and opened a drawer to retrieve § 87(2)(b)'s ID to obtain her pedigree information for EMS personnel (**Allegation E**). § 87(2)(b) was removed to § 87(2)(b) for a psychiatric evaluation and she was not arrested or summonsed (**Allegations C and D**). There was no video footage available for this incident. § 87(2)(g)

§ 87(2)(g)

### Mediation, Civil, and Criminal Histories

§ 87(2)(b) rejected mediation. On December 23, 2015, a FOIL request was sent to the New York City Comptroller's Office and the status of a Notice of Claim for § 87(2)(b) is pending. A search of BADS revealed no prior arrest history for § 87(2)(b) (See Board Review 1).

### Civilian and Officer Histories

- This is § 87(2)(b)'s first CCRB complaint (See Board Review 2).
- PO Dileonardo has been a member of the service for seven years and there are no substantiated CCRB allegations against him.
- PO Vazquez has been a member of the service for four years and this is the first CCRB complaint that has been filed against him.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

PO Dileonardo and PO Vazquez acknowledged interacting with § 87(2)(b) § 87(2)(b) stated that when she was removed from her apartment by the officers, she saw PO Dileonardo go back inside her apartment, and she assumed that he searched it. However, since PO Vazquez acknowledged that he was the officer that went back inside the apartment, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### Allegations Not Pleaded

It is not in dispute that PO Vazquez broke the chain lock on § 87(2)(b)'s door to gain entry to her apartment. § 87(2)(g)

§ 87(2)(g)

## **Recommendations**

**Allegation A- Abuse of Authority: PO Eric Dileonardo entered** § 87(2)(b)

**in Brooklyn.**

**Allegation B- Abuse of Authority: PO Angel Vazquez entered** § 87(2)(b)

**in Brooklyn.**

**Allegation E- Abuse of Authority: PO Angel Vazquez searched** § 87(2)(b)

**in Brooklyn.**

§ 87(2)(b) testified that before the incident began, she had just returned to her apartment after taking a trip to the shared bathroom on her floor. § 87(2)(b)

§ 87(2)(b) went to bed and tried to fall asleep. A few minutes later, § 87(2)(b) heard someone knocking on her door. The individual behind the door, PO Eric Dileonardo, verbally identified himself as an officer and asked to speak with § 87(2)(b). § 87(2)(b) ignored PO Dileonardo and remained in her bed. § 87(2)(b) then heard someone insert a key into her door and open her door. However, there was a chain lock on § 87(2)(b)'s door, preventing officers from entering her apartment. § 87(2)(b) walked up to her door and slammed it shut. PO Dileonardo opened the apartment door again and pushed it with a lot of force, causing the chain lock to break off. However, § 87(2)(b) had propped open a closet door adjacent to her apartment door, which stalls people who try to forcibly enter her apartment. PO Dileonardo reached around the apartment door and pushed the closet door away so that he could enter the apartment. PO Dileonardo and his partner, PO Angel Vazquez, entered § 87(2)(b)'s apartment. The officers placed § 87(2)(b) in handcuffs and removed her from her apartment. § 87(2)(b) saw § 87(2)(b) the § 87(2)(b), in the hallway, and she asked him how the officers were able to gain access to her apartment. § 87(2)(b) did not answer. § 87(2)(b) stated that she saw PO Dileonardo re-enter her apartment. However, as explained earlier, the investigation determined that it was PO Vazquez who re-entered her apartment. § 87(2)(b) assumed that PO Vazquez searched her apartment because he mentioned that he was looking for § 87(2)(b)'s keys. § 87(2)(b) was brought outside the building, where EMS was waiting for her. One of the officers- § 87(2)(b) did not recall who- gave EMS copies of § 87(2)(b)'s medical records, as well as her ID. EMS transported § 87(2)(b) to § 87(2)(b), where she received a psychiatric evaluation (See Board Review 3 and 4).

§ 87(2)(b) the § 87(2)(b), testified that on the date of the incident, he received a call from § 87(2)(b) the housekeeper of the building, stating that § 87(2)(b) was screaming and repeatedly opening and closing her apartment door, to the point that the hinges on the door were coming off. The frame of the door was also coming out as a result of the banging. § 87(2)(b) stated that § 87(2)(b) has a history of violence and being verbally abusive towards other tenants in the building. § 87(2)(b) has a mental health history, and suffers from bipolar disorder and schizophrenia. After receiving the call from § 87(2)(b) § 87(2)(b) received calls from approximately three other tenants, who stated that § 87(2)(b) was screaming and cursing at them. The tenants told § 87(2)(b) that they did not want to leave their apartments for fear of encountering § 87(2)(b) in the hallway. § 87(2)(b) called 911 to report an emotionally disturbed person (EDP) who was disturbing residents and damaging building property. When PO Dileonardo and PO Vazquez arrived at the scene, § 87(2)(b) explained to them that § 87(2)(b) had a mental health history and he believed that she was not taking her medication since she was behaving violently. § 87(2)(b) told the officers

that he was not sure whether § 87(2)(b) had a weapon. § 87(2)(b) escorted the officers upstairs and brought them to § 87(2)(b)'s unit. The officers knocked on § 87(2)(b)'s door, announced themselves as officers, and asked her to open her door. § 87(2)(b) refused, saying, "Why the fuck are you at my door?" § 87(2)(b) who had a set of keys to § 87(2)(b)'s door, opened § 87(2)(b)'s door for the officers to enter. However, there was a chain lock on the door. PO Dileonardo and PO Vazquez again asked § 87(2)(b) to open her door so that they could speak with her. The officers were being patient and not aggressive with § 87(2)(b). § 87(2)(b) cursed at the officers and slammed her door shut. The officers asked § 87(2)(b) to use his keys to open the door again, which § 87(2)(b) did. PO Dileonardo took out his retractable baton and struck the chain lock off the door, allowing the officers to finally enter the apartment. § 87(2)(b) did not see what occurred once the officers entered the apartment, since he remained in the hallway, out of view. Approximately two minutes later, § 87(2)(b) was brought out of the apartment in handcuffs. PO Vazquez asked § 87(2)(b) to retrieve § 87(2)(b)'s ID to provide § 87(2)(b)'s date of birth to EMS personnel. § 87(2)(b) and PO Vazquez went back inside § 87(2)(b)'s apartment to search for her ID. PO Vazquez opened a drawer and found § 87(2)(b)'s ID. PO Vazquez took the ID out and closed the drawer. This was the only place in the apartment that PO Vazquez searched; once he obtained the ID, PO Vazquez exited the apartment. No other items were removed from § 87(2)(b)'s apartment. § 87(2)(b) asked the officers to take § 87(2)(b) to § 87(2)(b) and he provided the officers with § 87(2)(b)'s medical records, which included § 87(2)(b)'s mental health history. § 87(2)(b) was transported to the hospital (See Board Review 5).

According to the 911 audio recording, § 87(2)(b) reported that there was an emotionally disturbed person, § 87(2)(b), who was "ferociously" slamming her door. Tenants in the building were running away from her and calling downstairs to complain. § 87(2)(b) stated that he was not sure whether § 87(2)(b) had any weapons. The 911 operator connected § 87(2)(b) to EMS and he informed EMS that § 87(2)(b) was emotionally disturbed, not taking her medication, threatening residents, and slamming her door continuously. EMS recommended that § 87(2)(b) attempt to speak with § 87(2)(b) to calm her down. § 87(2)(b) replied that § 87(2)(b) was not listening to him and that he would just wait for emergency responders to arrive. EMS then advised § 87(2)(b) to keep everyone away from § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) did not cause any injuries to anyone, including herself (See Board Review 6 and 7).

§ 87(2)(b) the § 87(2)(b), testified that she became aware of the incident because § 87(2)(b) called her and informed her that § 87(2)(b) was banging on her door and causing it to separate from the wall. § 87(2)(b) was making excessive noise and disturbing other residents on her floor. § 87(2)(b) has a history of threatening other tenants and a history of mental illness. § 87(2)(b) stated that the § 87(2)(b) currently has ongoing litigation with § 87(2)(b) in an attempt to compel § 87(2)(b) to transfer to a supportive housing facility, § 87(2)(b). § 87(2)(b) went to § 87(2)(b)'s floor after receiving the call from § 87(2)(b). When she arrived at the floor, § 87(2)(b) was already handcuffed and standing in the hallway. § 87(2)(b) did not see the officers place § 87(2)(b) in custody. § 87(2)(b) could not hear what anyone was saying, since she stood at a distance. § 87(2)(b) did not see any of the officers search § 87(2)(b)'s apartment; her door was

closed and everyone was in the hallway. The officers brought § 87(2)(b) outside the building and § 87(2)(b) was transported to the hospital. § 87(2)(b) did not believe that § 87(2)(b) was arrested since, § 87(2)(b) returned to the building approximately an hour after she was taken to the hospital (See Board Review 8).

§ 87(2)(b) a § 87(2)(b), testified that she was cleaning the communal bathroom on the tenth floor of the building right before the incident started. § 87(2)(b) used the bathroom, went back to her apartment, and began slamming her door repeatedly. § 87(2)(b) called § 87(2)(b) to report § 87(2)(b)'s behavior, and § 87(2)(b) called 911. PO Dileonardo and PO Vazquez arrived at the scene and knocked on § 87(2)(b)'s door. § 87(2)(b) refused to open her door. The officers explained that they had received a 911 call about § 87(2)(b) slamming her door and making excessive noise. § 87(2)(b) replied, "I'm not opening my fucking door. Why the fuck are you all knocking on my door for?" I'm not fucking opening my door." The officers asked § 87(2)(b) to calm down and to open her door. § 87(2)(b) was standing by the bathroom, around the corner from the corridor where § 87(2)(b)'s apartment was located; thus, she could not see § 87(2)(b)'s door, but she could hear the verbal exchange. § 87(2)(b) heard § 87(2)(b) say, "Move your foot" to one of the officers. § 87(2)(b) looked around the corner and saw PO Dileonardo with his foot wedged in § 87(2)(b)'s door, telling § 87(2)(b) that he just wanted to speak with her. § 87(2)(b) then walked out of view, because she did not want § 87(2)(b) to see her. § 87(2)(b) did not see the officers enter § 87(2)(b)'s apartment at any point. She did eventually see the officers walking § 87(2)(b) down the hallway in handcuffs. The officers escorted § 87(2)(b) out of the building (See Board Review 9).

PO Dileonardo testified that on the date of the incident, he and his partner, PO Vazquez, received a call for an EDP job at § 87(2)(b). When the officers arrived at the building, they first spoke with § 87(2)(b) who explained that § 87(2)(b) was behaving irrationally and banging her door and causing damage to it. PO Dileonardo stated that § 87(2)(b) told him that § 87(2)(b) was a psychiatric patient who had a specific disorder, but PO Dileonardo did not recall the disorder that § 87(2)(b) mentioned. § 87(2)(b) brought the officers to § 87(2)(b)'s unit on the tenth floor. PO Dileonardo observed damage to § 87(2)(b)'s doorframe, which was indicated by cracked paint. PO Dileonardo did not see or hear § 87(2)(b) banging on her door when he arrived on the floor. PO Dileonardo and PO Vazquez knocked on § 87(2)(b)'s door and ordered her to open her door, but she did not do so. § 87(2)(b) said something back to the officers, but PO Dileonardo did not recall what she said. The officers continued knocking for approximately five minutes, but § 87(2)(b) still did not open her door. § 87(2)(b) had the keys to § 87(2)(b)'s apartment, and he offered to open § 87(2)(b)'s door for the officers. PO Dileonardo agreed to let § 87(2)(b) open the door with his keys, which he did. However, there was a pull chain on the door preventing it from being fully opened. PO Dileonardo and PO Vazquez asked § 87(2)(b) again to open her door, but § 87(2)(b) replied that she was not opening her door. PO Dileonardo explained to § 87(2)(b) that the officers were there to help her and that she needed medical attention. § 87(2)(b) closed her door shut. The officers opened § 87(2)(b)'s door several more times, but § 87(2)(b) continued closing her door on the officers. Due to § 87(2)(b)'s non-compliance with the officers' orders, PO Dileonardo believed that § 87(2)(b) posed a threat to herself and others. PO Vazquez proceeded to break the pull chain on § 87(2)(b)'s door. The officers

attempted to enter the apartment, but there was a closet door propped open, preventing the main door from fully opening. PO Dileonardo reached around the main door and closed the closet door so that the officers could enter. The officers placed § 87(2)(b) on her bed and handcuffed her. PO Dileonardo stated that when an EDP-related incident is reported, a police supervisor is automatically requested by the dispatcher to respond to the scene. However, a supervisor did not respond for this incident. The officers removed § 87(2)(b) from her apartment. PO Dileonardo did not go back inside the apartment a second time, and he did not search the apartment. PO Dileonardo asked § 87(2)(b) where her keys were located, but he did not perform a search for the keys. Neither PO Dileonardo nor PO Vazquez removed any items or objects from the apartment. The officers escorted § 87(2)(b) downstairs, where there was an ambulance waiting to transport § 87(2)(b) to § 87(2)(b) for a psychiatric evaluation. PO Dileonardo stated that the reason he and PO Vazquez entered § 87(2)(b)'s apartment was to bring her to the hospital in response to a 911 call, not to arrest her or seize evidence (See Board Review 10).

PO Vazquez's statement was generally consistent with PO Dileonardo's statement in regards to the information the officers received before and when they arrived at the location. PO Vazquez's description of how the officers gained entry into the apartment was also consistent with PO Dileonardo. When the officers took § 87(2)(b) out into the hallway, PO Vazquez went back inside § 87(2)(b)'s apartment to look for her ID, to obtain § 87(2)(b)'s pedigree information for EMS. PO Vazquez performed a plain view search of the apartment, but he did not find § 87(2)(b)'s ID. PO Vazquez did not open any closets, doors, or compartments inside § 87(2)(b)'s apartment. PO Vazquez looked around for § 87(2)(b)'s ID for approximately 30 seconds before exiting the apartment. PO Dileonardo did not go back inside § 87(2)(b)'s apartment a second time. Neither PO Vazquez nor PO Dileonardo searched § 87(2)(b)'s apartment. PO Vazquez stated that when an EDP call is received by 911, a police supervisor is automatically requested by the dispatcher to respond to the scene. However, a supervisor never responded to this incident. § 87(2)(b) was brought outside the building, placed in an ambulance, and taken to the hospital. The officers went to the hospital as well, but only remained for a few minutes before leaving. PO Vazquez was not aware as to the outcome of § 87(2)(b)'s medical evaluation (See Board Review 11).

The AIDED card prepared by PO Vazquez states that § 87(2)(b) informed the officers that "Aided female has history of bipolar disorder and is not compliant to medications." § 87(2)(b) also informed the officers that § 87(2)(b) was banging on doors. She was transported to § 87(2)(b) by FDNY EMS for further evaluation (See Board Review 12).

Patrol Guide Procedure 216-05 states that in cases where an EDP's actions do not constitute an immediate threat of serious physical injury or death to himself or others, members of service must attempt to isolate and contain the EDP while maintaining a zone of safety until arrival of patrol supervisor and Emergency Service Unit personnel. The patrol guide further states that members of service should not attempt to take an EDP into custody without the specific direction of a supervisor. Members of service must ascertain if the patrol supervisor is responding, and, if not, request a response (See Board Review 13).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation C- Abuse of Authority: PO Eric Dileonardo forcibly removed § 87(2)(b) to New York Methodist Hospital.**

**Allegation D- Abuse of Authority: PO Angel Vazquez forcibly removed § 87(2)(b) to New York Methodist Hospital.**

As stated in the previous section, § 87(2)(b) had just returned from the bathroom and was trying to fall asleep when she heard PO Dileonardo and PO Vazquez knocking on her door. § 87(2)(b) did not recall what she was doing earlier that day. § 87(2)(b) did not mention to the CCRB that she was banging on her door or making any type of noise prior to the incident (See Board Review 3 and 4).

According to § 87(2)(b)'s medical records from § 87(2)(b), § 87(2)(b) was diagnosed with agitation, bipolar affective disorder, schizophrenia, and left shoulder pain. § 87(2)(b) complained of pain to her shoulder resulting from tightness of handcuffs. An x-ray revealed no evidence of dislocation or fracture to her shoulder. § 87(2)(b) informed medical staff that she was angry in her apartment because another resident was staring at her in the bathroom and purposely trying to annoy her. As per housing staff, § 87(2)(b) was not

compliant with her medication. § 87(2)(b) was discharged from the hospital with instructions for follow-up care (See Medical Records Folder).

However, § 87(2)(b) (See Board Review 5), § 87(2)(b) (See Board Review 8), and § 87(2)(b) (See Board Review 9) all stated that § 87(2)(b) was repeatedly banging her door, causing alarm to other residents on the floor, who called § 87(2)(b) to complain about § 87(2)(b). § 87(2)(b) stated that he was not sure whether § 87(2)(b) had any weapons. Based on a preponderance of the evidence, the investigation is crediting that § 87(2)(b) was repeatedly slamming her door, while screaming and cursing.

PO Dileonardo (See Board Review 10) and PO Vazquez (See Board Review 11) were both consistent in stating that they forcibly entered § 87(2)(b)'s apartment and placed her in custody because she was an emotionally disturbed person (EDP) and they needed to take her to the hospital.

According to New York Mental Hygiene Law § 9.41, an officer “may take into custody any person who appears to be mentally ill and is conducting himself or herself in a manner which is likely to result in serious harm to the person or others.” The law defines “likelihood to result in serious harm” as, “threats of or attempts at suicide or serious bodily harm,” or, “a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior.” The officer may remove the person to a hospital or comprehensive psychiatric emergency program (See Board Review 14).

In *Higgins v. City of Oneonta* (208 A.D.2d 1067; 617 N.Y.S.2d 566; 1994 N.Y. App. Div.), the Supreme Court of New York held that the warrantless entry of the plaintiff's residence was valid under New York Mental Hygiene Law § 9.41. The Court stated that officers' prior knowledge of the plaintiff's hostility towards members of the police department, coupled with a psychiatrist's belief that the plaintiff was dangerous, gave officers a legitimate basis to enter the plaintiff's residence and place him in custody (See Board Review 15).

Furthermore, New York Mental Hygiene Law § 9.43 establishes that a warrant may be issued to compel an apparently mentally ill person to appear before a court, if the person is conducting himself or herself in a manner that would be deemed disorderly conduct or likely to result in serious harm to himself or herself. A court may then determine whether the person should be removed to a hospital for further treatment (See Board Review 16).

§ 87(2)(g)  
[REDACTED]



§ 87(2)(g) [Redacted]  
[Redacted]  
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Squad: 10

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date